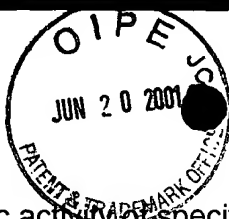


"A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (1) that the process as claimed is not an obvious process of making the product and the process of making the product and the process as claimed can be used to make other and different products, or (2) that the product as claimed can be made by another and materially different process." (MPEP § 806.05 (F) (Emphasis added.)

As claimed, the methods of claims 1-5 and 13-16 (Group I) are drawn to methods of determining the optimum length of an epitope found in a polypeptide, not, as Examiner asserts, to the optimum length of a polypeptide itself. Although other methods exist that provide the hydrophilicity pattern of a protein to use as a basis for determining location of continuous protein epitopes, only the methods claimed in claims 1-5 and 13-16 can predict the length of a continuous epitope in a protein. The process as claimed can only be used for predicting the location and optimal length of continuous epitopes. It is a predictive method and is not used to make other or different products.

In this same vein, the products claimed in claims 6,7,10, 11, 17, and 20 (Group II) are epitopes with hydrophobic-hydrophilic-hydrophobic motif, not the polypeptides themselves. A unique element of the product claims of Group II is found in the Ho-Hi-Ho motif epitopes wherein the epitopes are found to have an optimum length of amino acid residues. The optimal length of the claimed epitopes can only be determined by using the methods described in the claims of Group I. Various methods exist to determine length and sequence of a particular protein and other methodologies exist to locate epitopes on proteins. However, no other methods exist that can create the optimum-length epitope products of Group II. Therefore, the product of Group II and process of Group I are linked and should be considered as one invention.

For the same reasons, claims 9 and 18 (Group IV) should not be restricted into a separate invention, but rather should be included with the claims of Groups I and II as the same invention. The antisera in claims 9 and 18 are specific and unique for the polypeptide epitopes created by the claimed method of claims 1- 5 and 13-16. The immunological activity of the claimed antisera is based on the



RECEIVED

JUN 22 2001

TECH CENTER 1600/2900

antigenic activity of specific epitopes of specific location and length as determined only by the methods described in the claims of Group I. Thus, the product claimed cannot be produced using any other process methods and should not be considered a separate invention from the claims of groups I and II. In short, Applicant respectfully submits the claims of Groups I, II, and IV should be prosecuted together on their merits and the restriction requirement should be withdrawn

PROVISIONAL ELECTION OF CLAIMS

If the Examiner does not accept Applicant's traverse and lift the restriction requirement, applicant provisionally elects the claims of Group V (Claims 12 and 19) to prosecute on the merits.

In view of the arguments presented, applicant respectfully submits that restriction requirement placing the claims of Groups I, II, and IV should be lifted and said claims should be prosecuted together on the merits at such time as applicant decides to prosecute said claims.

Dated: June 18, 2001

Respectfully submitted,

C. Richard Lohrman, Esq.
ATTORNEY FOR APPLICANT
Reg. No. 46,878
The Bilicki Law Firm, P.C.
Furniture Mart Building
Suite 1000
111 West Second Street
Jamestown, NY 14701
(716) 664-5600